

MINUTE ITEM

This Calendar Item No. C23 was approved as Minute Item No. 23 by the California State Lands Commission by a vote of 3 to 0 at its 02-09-06 meeting.

**CALENDAR ITEM
C23**

A 33

02/09/06

PRC 8329.9

S 18

J. Brown

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

Duke Energy Morro Bay LLC

ASSIGNEE:

LS Power Generation, LLC

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Pacific Ocean, offshore of the city of Morro Bay, San Luis Obispo County.

AUTHORIZED USE:

Deposit a maximum of 5,000 cubic yards of sand, silt or clay per dredging event and up to a maximum of 15,000 cubic yards of sand, silt or clay total during the term of the lease.

LEASE TERM:

Five years, beginning September 1, 2001.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

OTHER PERTINENT INFORMATION:

1. The maintenance dredging activities will be performed to remove the littoral sand accumulation from the area of the Morro Bay Power Plant cooling water intake structure. The maintenance dredging is required to maintain adequate functioning of the existing cooling water intakes and minimize the intake flow velocities.
2. Under the terms of the existing lease, the Assignee will continue to perform maintenance dredging activities on patented State tidelands

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previously authorized by the Commission on September 17, 2001. In that the tidelands were sold into private ownership without the minerals being reserved to the State, a lease from the Commission for the maintenance dredging is not required. However, the patented tidelands remain subject to the Public Trust easement under the Commission's jurisdiction. Commission staff believes the proposed project is not incompatible with the Public Trust.

3. On September 17, 2001, the Commission found that A Finding of No Significant Impact (FONSI) was prepared and adopted for this project by the USACE.
4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

AUTHORIZATION:

AUTHORIZE THE ASSIGNMENT OF LEASE NO. PRC 8329.9, A GENERAL LEASE - BEACH REPLENISHMENT USE, OF SOVEREIGN LANDS LOCATED ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, FROM DUKE ENERGY MORRO

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BAY LLC TO LS POWER GENERATION, LLC; EFFECTIVE UPON THE
TIMELY OCCURRENCE OF THE FOLLOWING CONDITION:

- A) THE CLOSING OF THE SALE AND TRANSFER OF THE DUKE
ENERGY MORRO BAY LLC, MARINE TERMINAL ASSETS TO LS
POWER GENERATION, LLC.



SOURCE: US ARMY CORPS OF ENGINEERS, ENVIRONMENTAL ASSESSMENT 404(b)(1) EVALUATION PUBLIC INTEREST REVIEW, PERMIT APPLICATION NUMBER 95-50326-TW, ATTACHMENT C, SEPTEMBER 29, 1998. NEARSHORE DISPOSAL SECTION TAKEN FROM US ARMY CORPS OF ENGINEERS, ENVIRONMENTAL ASSESSMENT, THREE YEAR MAINTENANCE DREDGING PROGRAM AT MORRO RAY HARBOR. EINF 1009